UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/765,380	NAGASHIMA ET AL.
	Examiner	Art Unit
	Ted T. Vo	2191

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 April 2007_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _53-55,58,60 and 61_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _53-55, 58, 60-61_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This action is in communication to the amendment filed on 04/11/2007.

Claims 53-55, and 58, 60-61 are pending in the application.

Response to Arguments

2.   Applicants' arguments have been considered.

Applicant mentioned that Claims 53-55 which were subjected to restriction in another US

application at the time of its filing.

It should be noted that double patenting is improper to a division application only when the claims

remain the same as in the original filing. The claims filed in this application have been amended. The

Claims appeared in the patent 6,557,165 have not been the same as they are in the original filing. The

scopes of claims have changed. For example, the original claim 1 and the claim 1 in the patent

6,557,165 are different. The original claim 1 does not have a component as appeared in the patent

6,557,165:

> "A component builder apparatus, comprising:
> a first handler to selectively indicate making of methods and messages;
> a second handler to designate a desired event of existing software; and
> *a component builder to build a component* which serves as one object in combination with the
> existing software, *the component including a method in response to an indication of making of the
> method by said first handler and designation of a first event of the existing software by said
> second handler, the method firing in response to a first message issued by another object to
> issue the first event, and the component including a message in response to an indication of
> making of a second message by said first handler and designation of a second event of the
> existing software by said second handler, the second message issuing in response to occurrence
> of the second event, to inform other objects that the second event occurred*".

Amended claim 53 appeared in this present application functionally recites the data matter that is

stored in a storage medium:

> "the data including GUI identification and GUI event information as GUI data for the existing
> software with the GUI in the computer system, and

as a component method for the existing software, a program code to control the computer system according to a process of receiving a message issued in another object,
and <u>driving</u> the existing software by <u>issuing</u> a GUI event of the existing software to the existing software (patent: firing [in response] .. issue the first event), based upon the GUI data of the existing software, in response to the received message (patent: *response to a first message issued by another object*) wherein the data and the component method together in combination with the existing software serve as one object",

where data and component method for existing software to control the computer system are merely a component builder to build a component which serves as one object in combination with the existing software, as claimed in the version in patent 6,557,156.

Therefore, the restriction or the double patenting is applied when it is necessary.

With regard to the argument under 102, Applicant argues the reference fails to disclose the claims. However, many limitations are merely the preemption of generic and abstract elements in object-oriented component. Because the specification is jumbo, it does not know whether the specification supports the claims as amended or not. The limitations in the claims should be antecedent basis to the specification. In the claim 53, Applicant claims that in a readable storage medium storing an object programming component, comprising data, and component method. It should be noted that every object-oriented object has a method to issue and receive messages from another object/component. Applicant claims that data, method, and existing software server as one object. It is unclear how data and method in the medium served as an object, but it appears this is only preemption. It should be noted that in a media its element is only code/data.

Furthermore, every component builder, such as the component builders of the references of record, discloses the claims in which the limitations are merely preemption. It should also be noted that a component builder, which is common and under publics use, is a GUI that is associated with existing software to build and to rebuild components.

Double Patenting

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Omum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

In view of the newly added limitations:

Claims 53-55, and 58, 60-61 are rejected under the judicially created doctrine of obviousness-

type double patenting as being respectively unpatentable over claim 1 or 2 of U. S. Patent No. **6,557,165**

B1. Although the conflicting claims are not identical, they are not patentably distinct from each other

because:

Claim 1 (or 2) in the US Patent No. 6,557,165 B1 recites

> A component builder apparatus, comprising:
> *a first handler to selectively indicate making of methods and messages;*
> *a second handler to designate a desired event of existing software* (Current application claims: as GUI data); and
> *a component builder to build a component which serves as one object in combination with the existing software* (Current application claims: data related to existing software having a graphical user interface (GUI) and the component method),
> *the component including a method in response to an indication of making of the method by said first handler and designation of a first event of the existing software by said second handler* (Current application claims: component method), *the method firing in response to a first message issued by another object to issue the first event, and the component including a message in response to an indication of making of a second message by said first handler and designation of a second event of the existing software by said second handler* (Current application claims: receiving a message issued in another object, and driving the existing software by issuing a GUI), *the second message issuing in response to occurrence of the second event, to inform other objects that the second event occurred.*

The claim is corresponding to the recitation in this instant claim 53 (and 54, 61) that recites,

> data related to existing software having a graphical user interface (GUI), <u>the data including GUI identification and GUI event information as GUI data for the existing software with the GUI in the computer system,</u> and

as a component method <u>for the existing software</u>, a program code to control <u>the</u> computer system according to a process of <u>receiving a message issued in another object</u>, and driving the existing software <u>by</u> issuing <u>a GUI</u> event of the existing software to the existing software, based upon the <u>GUI data of the</u> existing software, in response to <u>the</u> received message wherein the data and the component method together in combination with the existing software serve as one object.

(Patent claiming: "the component including a method").

The instant Claims 55, 58 and 60 have the claimed limitation corresponding to the claims 53-54, 61, therefore it is being double patented as the same reason as set forth to Claims 53-54, 61 above.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for · patent in the United States.

5.   Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 102(a) as being anticipated by Kirshnamurthy, "Practical Reusable Unix Software", John Wiley & Sons, Inc, copyright 1995 AT&T (hereinafter: AT&T).

Given the broadest reasonable interpretation of followed claims in light of the specification.   ,

<u>As per claim 53</u>: AT&T discloses,

"A computer readable storage medium storing an object oriented programming

component accessible by objects in <u>a computer system</u>, comprising:

data (Interpret as instructions that stores in the computer storage) *related to existing software*

having a graphical user interface (GUI), <u>the data including GUI identification and GUI event</u>

information as GUI data for the existing software with the GUI in the computer system (See Fig.

1.3, p. 13), *and*

        as a component method for the existing software, a program code to (i.e. existing and

generated components)

        control the computer system according to a process of receiving a message issued in

another object (See Figure 1.2: i.e. receive "New libast"/"Fixed libast"), *and driving the existing*

software by issuing a GUI event of the existing software to the existing software, based upon the

GUI data of the existing software in response to the received message (See all events come out at

the Rebuilt component, and refer to the Figure 1.3, for a GUI that is used to control receiving and driving

the existing software by such GUI events),

        wherein the data and the component method together in combination with the existing

software serve as one object (i.e. see p, 14, last paragraph: component builder/new components).

As per claim 54: AT&T discloses,

The computer readable storage according to claim 53, wherein said component further includes a

message for informing other objects that the GUI event of the existing software is issued. See

Figure 1.2, and further see sec 9, starts p. 247 and Figure 10.2 in p 279 for event handling.

As per claim 61: AT&T discloses, *The computer readable storage medium according to claim 53,*

wherein the GUI event to the existing software is issued through a GUI manager of the computer

system (see Figures 1.2 and 1.3, where Figure 1.3 is a GUI.

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to the

functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of Claims 53-

54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of Claims 53-

54, 61. Rejection has the same rationale as set forth Claims 53-54, 61.

6.   Claims 53-55, 58, and 60-61 are rejected under 35 U.S.C. 102(b) as being anticipated by

Maxfield, "Designing With Objects", MacTech, 1991.

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per claim 53: Maxfield discloses,

"A computer readable storage medium storing an object oriented programming component

accessible by objects in a computer system, comprising:

data (Interpret as instructions that stores in the computer storage) *related to existing software having a*

graphical user interface (GUI) ('Dialog Box'), *the data including GUI identification and GUI event*

information as GUI data for the existing software with the GUI in the computer system (See

Diagram 2, p. 3, an SFGetFile Dialog. See p. 5, second paragraph, e.g. 'selected file'), *and*

as a component method (Interpret as an issuing arrow) *for the existing software, a program code to*

control the computer system according to a process of receiving a message issued in another

object, and driving the existing software by issuing a GUI event of the existing software to the

existing software, based upon the GUI data of the existing software in response to the received

message, wherein the data and the component method together in combination with the existing

software serve as one object (See Diagrams 2-4, p. 3-4, Diagram 5, p. 5 and associated descriptions).

As per claim 54: Maxfield discloses,

The computer readable storage according to claim 53, wherein said component further includes a

message for informing other objects that the GUI event of the existing software is issued. (See

Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).

As per claim 61: Maxfield discloses, *The computer readable storage medium according to claim 53,*

wherein the GUI event to the existing software is issued through a GUI manager of the computer

system (See Diagrams, refer to the arcs, and see p.1-2, sec. 1 Messages – e.g. ACK/NAK).

As per claim 55: Regarding limitation, Claimed limitation has the functionality corresponding to the

functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 58: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth in Claims 53-54, 61.

As per Claim 60: Claimed limitation has the functionality corresponding to the functionality of Claims 53-54, 61. Rejection has the same rationale as set forth Claims 53-54, 61.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number **571-273-8300**.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV
September 14, 2007

TED VO
PRIMARY EXAMINER